

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

WILLIAM J. GRADFORD,
Plaintiff,
v.
F. VELASCO, T. WEBSTER,
Defendants.

Case No. 1:22-cv-01493-JLT-HBK

ORDER DENYING WITHOUT PREJUDICE
PLAINTIFF'S CONSTRUED MOTION

(Doc. No. 19)

Plaintiff, a former prisoner,¹ is proceeding pro se in this action filed pursuant to 42 U.S.C. § 1983. Pending before the Court is Plaintiff's pleading titled "dismissal for failure to satisfy Rule 8 is proper 'notice.'" (Doc. No. 19). While titled as a notice, the Court construes Plaintiff's pleading as a motion. Plaintiff's construed motion cites various case law that discuss the requirements of Federal Rule of Civil Procedure 8. (*See generally id.*). It is unclear if Plaintiff seeks to voluntarily dismiss the instant action, without prejudice, because he believes his Complaint violates Rule 8. *See* Fed. R. Civ. P. 7(b) ("A request for a court order must be made by motion. The motion must...state the relief sought."). Because the Court cannot discern what, if any relief Plaintiff seeks, the Court will deny the motion. If, however, Plaintiff is seeking to

¹ Plaintiff was incarcerated when he initiated this action. (Doc. No. 1). On February 10, 2023, Plaintiff filed a change of address that indicated he was no longer incarcerated. (Doc. No. 13). However, on April 28, 2023, Plaintiff filed another change of address for General Delivery in Modesto, California. (Doc. No. 18). Despite not being clear, it appears Plaintiff is no longer incarcerated.

1 voluntary dismiss this action, then he should file a notice that he is requesting to voluntary
2 dismiss this action, without prejudice, pursuant to Rule 41(1)(A)(i). *See* Fed. R. Civ. P.
3 41(1)(A)(i).

4 Accordingly, it is **ORDERED**:

- 5 1. Plaintiff's construed motion (Doc. No. 19) is DENIED without prejudice because it is
6 procedurally deficient.
- 7 2. If Plaintiff wishes to voluntarily dismiss this action, then he must file a notice labeled
8 "Notice to Voluntarily Dismiss Pursuant to Rule 41(1)(A)(i)" within **fourteen (14)**
9 **days**.

10
11 Dated: May 15, 2023


HELENA M. BARCH-KUCHTA
UNITED STATES MAGISTRATE JUDGE